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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

DTV Consumer Education Initiative

MB Docket No. 07-148

**NORTHWEST DAKOTA CELLULAR OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH CENTRAL RSA 2 OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH DAKOTA RSA NO. 3 LIMITED PARTNERSHIP;
BADLANDS CELLULAR OF NORTH DAKOTA LIMITED PARTNERSHIP;
NORTH DAKOTA 5 – KIDDER LIMITED PARTNERSHIP; BISMARCK MSA
LIMITED PARTNERSHIP; RSA 7 LIMITED PARTNERSHIP; IOWA 8 – MONONA
LIMITED PARTNERSHIP; AND IOWA RSA NO. 10 GENERAL PARTNERSHIP
PETITION FOR EXPEDITED RECONSIDERATION OR, IN THE ALTERNATIVE,
PETITION FOR LIMITED WAIVER OF 47 C.F.R. § 54.418(a), (b) AND (c)**

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To: Federal Communications Commission

**PETITION FOR EXPEDITED RECONSIDERATION
OR, IN THE ALTERNATIVE, PETITION FOR LIMITED
WAIVER OF 47 C.F.R. § 54.418(a), (b) AND (c)**

Northwest Dakota Cellular of North Dakota Limited Partnership, North Central RSA 2 of North Dakota Limited Partnership, North Dakota RSA No. 3 Limited Partnership, Badlands Cellular of North Dakota Limited Partnership, North Dakota 5 – Kidder Limited Partnership, Bismarck MSA Limited Partnership, RSA 7 Limited Partnership, Iowa 8 – Monona Limited Partnership, and Iowa RSA No. 10 General Partnership (collectively, the Partnerships), by and through their counsel, and pursuant to Section 1.429 of the Federal Communications Commission's (Commission) Rules, 47 C.F.R. § 1.429, respectfully request expedited reconsideration of the Commission's *Report and Order* issued March 3, 2008.¹

In the alternative, the Partnerships, pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, respectfully request limited waiver of the requirements of 47 C.F.R. § 54.418(a),

¹ *In the Matter of DTV Consumer Education Initiative*, MB Docket No. 07-148, *Report and Order*, 73 Fed. Reg. 15431 (rel. Mar. 3, 2008), erratum issued March 7, 2008.

(b) and (c)² to permit the carriers to provide monthly notice to each of their Lifeline/Link-Up subscribers by separate postcard mailed to the subscriber's billing address.

I. BACKGROUND

The Partnerships have each been designated as a competitive Eligible Telecommunications Carrier (ETC) for a service area within the State of North Dakota or the State of Iowa, respectively.³ As a designated ETC, the Commission's newly adopted Rule 54.418, 47 C.F.R. § 54.418, will require each of the Partnerships to begin providing monthly notice of the digital television (DTV) transition to its current Lifeline/Link-Up subscribers within thirty days of the effective date of the new rules — *i.e.*, on or before April 30, 2008.

Pursuant to Commission Rule 54.418(a) and (b), all ETCs receiving support from the federal low-income universal service fund are required to provide their Lifeline or Link-Up subscribers with the prescribed notice in the individual customer's monthly bill as part of the "information section on the bill" or in a secondary document mailed with the bill

² As originally published, subsections "c" and "d" of Rule 54.418 are mislabeled "d" and "e," respectively. This clerical error does not appear to have been corrected by the Erratum issued March 7, 2008.

³ *Northwest Dakota Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU-1226-03-597; *North Central RSA 2 of North Dakota Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU-386-03-598; *North Dakota RSA No. 3 Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU-897-03-599; *Badlands Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU-1225-03-600; *North Dakota 5 – Kidder Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU-338-03-601; *Bismarck MSA Limited Partnership Designated Eligible Carrier Application*, ND PUC Case No. PU 494-03-602, *Order*, (rel. Feb. 25, 2004); *In re RSA 7 Limited Partnership*, IUB Docket No. 199 IAC 39.2(4), *Order Designating Eligible Carrier* (rel. Sept. 13, 2004); *In re Iowa 8 – Monona Limited Partnership*, IUB Docket No. 199 IAC 39.2(4), *Order Designating Eligible Carrier* (rel. Sept. 13, 2004) and *In re Iowa RSA No. 10 General Partnership*, IUB Docket No. 199 IAC 39.2(4), *Order Designating Eligible Carrier* (rel. Sept. 13, 2004).

(e.g., a "bill stuffer"). 47 C.F.R. § 54.418(a) and (b). For Lifeline/Link Up subscribers who do not receive a paper bill or bill notice, Commission Rule 54.418(c) further provides that the customer must be provided with "equivalent monthly notices in whatever medium they receive information about their monthly bill" (e.g., email notification). 47 C.F.R. § 54.418(c).

In this Petition, the Partnerships respectfully request that the Commission reconsider the requirement that notice be provided to Lifeline/Link Up subscribers as part of the individual customer's monthly bill and instead adopt a more flexible approach allowing ETCs to provide monthly notice by mailing a separate postcard directly to the customer's billing address. Alternatively, the Partnerships request a limited waiver from the requirements of Commission Rule 54.418(a), (b) and (c) to permit the carriers to provide the requisite monthly notice by postcard mailed directly to the Lifeline/Link Up subscriber's billing address.

II. THE PARTNERSHIPS SUPPORT RURAL CELLULAR CORPORATION'S MARCH 25, 2008 PETITION FOR RECONSIDERATION

A. The Partnerships Did Not Receive Sufficient Notice of the Monthly Bill Notice Requirements

On March 25, 2008, Rural Cellular Corporation filed a petition for expedited reconsideration in this proceeding citing, among other reasons, the limited notice afforded ETCs concerning the specific means by which the Commission may require ETCs to provide notice of the DTV transition.⁴ Notably, the Notice of Proposed Rulemaking (NPRM)⁵ in this matter only referenced the Commission's intent to consider the suggestion that ETCs be required, on an interim basis, to include such notice "in their required Lifeline and Link-Up publicity efforts" —

⁴ *Rural Cellular Corporation's Petition for Expedited Reconsideration or, in the Alternative, Petition for Limited Waiver*, MB Docket No. 07-148 (March 25, 2008).

⁵ *In the Matter of DTV Consumer Education Initiative*, MB Docket No. 07-148, *Notice of Proposed Rulemaking*, 22 FCC Red. 14091 (rel. July 30, 2007).

in other words, that ETCs may be required to include notice as part of their direct Lifeline/Link-Up advertising and outreach efforts (e.g., separate print advertising, point-of-sale collateral, social service outreach efforts, etc.) The Partnerships, therefore, could not have reasonably anticipated that the Commission would consider or adopt a requirement strictly governing their billing practices.

B. The Partnerships' Billing System Cannot Accommodate the Monthly Bill Notice Requirements

Like Rural Cellular Corporation, the Partnerships' ability to segregate the monthly billing statements for Lifeline/Link-Up subscribers is also restricted by system limitations. Although Lifeline/Link Up subscribers can be identified by the Partnerships' unique billing system codes, the customers' physical invoices cannot be culled, either automatically or manually, from the millions of other billing statements generated each month. As a result, the Partnerships have no ability to provide the requisite notice only to Lifeline/Link-Up subscribers. Rather, any such notice would have to be broadly disseminated to all customers, including customers (1) that do not reside within the Partnerships' designated ETC service areas and (2) are not within the low-income group of consumers the Commission identified as justifying its decision to impose the notice requirements on telecommunications service providers.

The resulting overbroad distribution will also exponentially increase the cost the Partnerships will incur to provide the required monthly notice.⁶

⁶ The Partnerships are not yet able to estimate the cost impact of providing notice via a bill message or bill stuffer but agree with Rural Cellular Corporation that the cost savings associated with utilizing the separate postcard option would be several fold.

C. **The Commission Did Not Provide ETCs Sufficient Time To Implement the Monthly Bill Notice Requirements**

The Commission also did not provide ETCs sufficient time to implement the monthly bill notice requirements. Like many telecommunications carriers, the Partnerships rely on outside printing vendors to facilitate customer billing. As a result, considerable lead time – typically, a minimum of 60 to 90 days – is required to include any type of bill message⁷ or bill stuffer. In this case, the Commission's newly adopted notice requirements were first published on March 3, 2008, with implementation to begin no later than April 30, 2008. Because a minimum of 60 to 90 days is typically required, this accelerated implementation schedule does not provide the Partnerships sufficient time to provide the first required notice by either bill message or bill stuffer.

D. **The Alternative Postcard Option Will Better Inform Low-Income Consumers and Direct Them to Appropriate Resources**

Because the Partnerships' billing system limitations would prevent them from targeting the required DTV transition notice only to Lifeline/Link-Up subscribers, the carriers believe the resulting overbroad distribution will likely result in customer confusion and generate increased call volume to the carriers' customer care representatives.

The Partnerships therefore agree with Rural Cellular Corporation that a stand-alone postcard will better inform Lifeline/Link-Up consumers and more clearly direct them to appropriate resources to obtain additional information. A separate postcard is much more likely to be noticed by consumers. As a result, the message is less likely to become diluted by

⁷ In addition, the Partnerships question whether there is sufficient space in the information section of the monthly bills to print the lengthy notice prescribed by 47 C.F.R. § 54.418(b)(2) in large enough type for the notice to be "clear and conspicuous."

competing information concerning the customer's bill or other information about a carrier's telecommunications services accompanying the monthly bill.

Likewise, the Partnerships agree that a separate postcard is less likely to generate unnecessary calls to the carriers' customer care representatives. As set forth in Commission Rule 54.418(b)(2)(ii), the required notice must clearly and conspicuously identify the government website and a toll-free telephone number from which the customer can obtain additional information regarding "subsidized coupons" for digital-to-analog converter boxes. 47 C.F.R. § 54.418(b)(2)(ii). As wireless telecommunications providers, the Partnerships are not in the business of distributing such equipment and have no ability to provide the referenced "coupons" to consumers. Nor will the Partnerships' customer care representatives be equipped to provide any additional information about the DTV transition. Thus, any misdirected calls to the Partnerships' customer care representatives will only result in customer confusion and frustration. Yet intermingling the required monthly notice with a Lifeline/Link-Up subscriber's bill will only increase the risk that the customer will call the telecommunications carrier rather than the appropriate government resource.

III. ALTERNATIVE REQUEST FOR LIMITED WAIVER

In the alternative, if the Commission denies the instant petition for reconsideration, the Partnerships respectfully request, pursuant to 47 C.F.R. § 1.3, a limited waiver of the requirements of Commission Rule 54.418(a), (b) and (c) to permit the carriers to provide the requisite monthly notice by postcard mailed directly to the Lifeline/Link Up subscriber's billing address. Granting the Partnerships' request will substantially satisfy the Commission's stated objective of ensuring that low-income consumers receive clear and conspicuous notice while at the same time ensuring that such notice is provided in an efficient and cost-effective manner.

IV. CONCLUSION

For the foregoing reasons, the Commission should grant the Partnerships' request for expedited reconsideration or, in the alternative, request for limited waiver.

Respectfully submitted,

Dated: March 28, 2008

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**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...
Northwest Dakota Cellular of North Dakota, et al.
...and Thank You for Your Comments**

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Docket: 07-148

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